

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE: Randy Jay Spencer, : Bankruptcy No. 24-10166-JCM
Debtor. : Chapter 13
Randy Jay Spencer, :
Movant, : Document No.:
v. : Related Document No.:
No Respondent, :
Respondent. :

ORDER EMPLOYING SPECIAL COUNSEL

AND NOW, this _____ day of _____, 2024, upon consideration of the *Motion for Order of Employment of Special Counsel (APPLICATION FOR RANDY JAY SPENCER TO EMPLOY TIMOTHY D. McNAIR, ESQUIRE AND THE McNAIR LAW OFFICES, PLLC AS SPECIAL COUNSEL FOR THE DEBTOR)*, it is **ORDERED, ADJUDGED and DECREED** as follows:

(1) Timothy D. McNair, Esquire and the McNair Law Offices, PLLC located at 821 State Street, Erie, PA 16501-1316, is hereby appointed, as of the date of filing the *Motion*, as **Special Counsel** for the Estate/Debtor pursuant to the terms Civil Rights case, Spencer v. McSparren, et al. Initial retainer of \$10,000.00 paid February 17, 2023. Equity Case (Cranberry Township v. Spencer, Case No. 1092-2019) filed in Venango County Common Pleas. Cranberry Township v. Spencer, Case No. 1092-2019. Retainer agreement of \$2,000.00/month for all matters, of which agreement was substantially in default at the time he filed his bankruptcy proceeding. Prior to filing his bankruptcy case, Debtor owed a balance to Timothy D. McNair, Esquire and the McNair Law Offices, PLLC. The balance of fees have been waived. Fees may be subject to Court approval and are payable within 7 days of approval by the Court if required. \$275.00 per hour, billed monthly, subject to Bankruptcy Court approval and with payment being made within a week of approval described in the Fee Agreement attached to the above referenced *Motion* for the limited purpose of acting as attorney in connection with the interest of the Estate/Debtor in prosecuting a claim against *Spencer v. McSparren, et al* and *Cranberry Township v. Spencer* giving rise to the Debtor's claim for the Civil Rights case Spencer v. McSparren, et al and Equity case filed in Venango County Common Pleas. Cranberry Township v. Spencer, Case No. 1092-2019 as referenced to in the foregoing *Motion*, **PROVIDED HOWEVER**, no settlement of any claim is to occur without prior Court Order after notice and hearing.

(2) Professional persons or entities performing services in the above case are advised that approval of fees for professional services will be based not only on the amount involved and the results accomplished, but other factors as well including: the time and labor reasonably required by counsel, the novelty and difficulty of the issues presented, the skill requisite to perform the legal service properly, the preclusion of other employment due to acceptance of this case, the customary fee, whether the fee is fixed or contingent, the time limitations imposed by the client or the circumstances, the experience, reputation and ability of the attorneys involved, the undesirability of the case, the nature and length of the professional relationship with the client, and, awards in similar cases.

(3) Approval of any motion for appointment of counsel in which certain hourly rates/compensation terms are stated for various professionals is not an agreement by the Court to allow fees at the requested hourly rates or compensation terms, and is not a preapproval of compensation pursuant to

11 U.S.C. §328(a). Final compensation, awarded only after notice and hearing, may be more or less than the requested hourly rates/compensation terms based on application of the above-mentioned factors in granting approval by Court Order. ***Any retainer paid to the Special Counsel is unaffected by this Order and remains property of the Estate until further order of Court.***

(4) Notwithstanding anything to the contrary in the letter of engagement or agreement between Movant and Special Counsel, this *Order* does not authorize Special Counsel to retain or pay any outside counsel or other professional to assist Special Counsel in this matter unless such is done at no expense to Movant, directly or indirectly. Any other retention of and payment to an outside counsel or other professional is subject to prior approval of the Court.

(5) ***Movant shall serve the within Order on all interested parties and file a certificate of service.***

John C. Melaragno, Judge
United States Bankruptcy Court